

SENATE JOURNAL

Forty-First Legislature—Third Called Session.

FIRST DAY.

Senate Chamber,
Austin, Texas.

Wednesday, July 3, 1929.

The Senate met at 10 o'clock a. m., pursuant to the call of Governor Dan Moody, and was called to order by Lieutenant Governor Barry Miller.

Temporary Officers Announced.

The Chair announced the appointment of the following temporary officers:

Secretary—Bob Barker.
Sergeant-at-Arms—A. W. Holt.
Journal Clerk—Wendell O'Neal.
Doorkeeper—Warren Freund.

Roll Call.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Miller.
Berkeley.	Moore.
Cunningham.	Neal.
Gainer.	Parrish.
Greer.	Pollard.
Hardin.	Russek.
Holbrook.	Thomason.
Hornsby.	Williamson.
Hyer.	Wirtz.
Love.	Witt.
McFarlane.	

Absent—Excused.

Cousins.	Small.
DeBerry.	Stevenson.
Martin.	Westbrook.
Parr.	Woodul.
Patton.	Woodward.

A quorum being present, the Senate arose and attended prayer by the Rev. Mr. Forbes.

Proclamation by the Governor.

The Chair laid before the Senate the following proclamation by the Governor:

Proclamation by the Governor of the State of Texas.

To All to Whom These Presents Shall Come:

1—Jour.

WHEREAS, the following message has this date been sent to the Legislature:

Executive Office,
Austin, Texas, July 2, 1929.

To the Members of the Forty-first Legislature of Texas.

Ladies and Gentlemen of the Legislature:

Of the appropriation bills passed at this session of the Legislature, I have up to this time approved appropriations in the amount of \$232,780.00. There is now before me, but unapproved, bills passed by this session of the Legislature carrying appropriations in the amount of \$35,819,978.48. The total of these two figures, that is \$36,052,758.48, represents the amount of appropriations carried in bills passed in this Second Called Session of the Forty-first Legislature, which have come to me for approval. I am further advised that you have adopted a free conference report on the Education Bill and that this bill, as prepared, carried appropriations in the amount of \$16,496,545.00. The total of all of these figures, that is, \$52,549,303.48, is the amount which has been appropriated by the Second Called Session of the Legislature.

During the Regular Session and the First Called Session of the Forty-first Legislature, your appropriations, which were approved, total \$2,349,884.04.

Therefore, according to these figures this Legislature in the Regular, First and Second Called Sessions, has appropriated a total of \$54,899,187.52. So far as I am informed this exceeds by several million dollars the appropriations of any Legislature in the past history of this State.

The amount of these appropriations which are to be paid from the general revenue of the State during the two ensuing fiscal years can be approximately estimated. Estimates made by different people would vary in amount, but I believe that all will agree that considerably more than

\$50,000,000.00 of these appropriations must be paid from the general revenue fund during the next two years.

Varying figures have been offered as to the possible income to the general revenue fund of the State for the ensuing biennium. I know of but one way to figure this and that is after the formula prescribed by the statutes. When the income is so figured, allowing as liberal estimates on valuation and income from sources other than ad valorem taxes as are reasonable, the maximum rate of taxation allowed under the Constitution would yield approximately \$49,000,000.00 to the general revenue and likely some less than this sum. It is apparent to my mind that these appropriations exceed the prospective income for the period during which they must be paid.

I deplore the fact that the Legislature feels the necessity to appropriate the maximum of State income under the highest tax rate allowed under the Constitution. I do not believe such a necessity exists. I do not believe that the people of Texas want the Legislature to be niggardly or stingy in support of its institutions or departments, but I know that they want economy practiced by the Legislature, the institutions and the departments. There is no security against extravagance or waste except the fidelity of the public officers and employees. When the amount of money expended in past years in support of the government is considered, I believe that you can adequately provide for all activities of the government and bring the appropriations under the present bills by a large sum of money. In 1921, that is only eight years ago, the appropriations totaled only \$24,419,688.55. The bills passed by this Legislature represent an increase of more than one hundred per cent in the cost of the government in a period of eight years. Against such a rising tide in State expenses, someone must stand. The tax paying public will not endorse any such ratio of increase in the cost of government, and should be protected from such increases.

The law permits the Governor to veto items from the appropriation bill. He cannot reduce an item, but he must either approve it all or veto

it all. He is prohibited from reducing an item to an amount which he thinks reasonable. He must let the whole item stand as passed by the Legislature or strike it all from the bill. In most instances the items which can be vetoed are small and you must remember that it takes a thousand \$1,000.00 items to equal \$1,000,000.00. When you contemplate this fact the improbability of my being able to reduce these appropriations to a reasonable sum must be apparent to all of you. I abandon all hope of vetoing items as a means of bringing these bills within a sum which would be a reasonable expense for the support of State departments and institutions for the ensuing two years.

The duty to keep the expenses within the revenue of the State government is a mutual one, it rests upon the Legislature and it rests upon the Governor. The duty to keep State expense within proper limits is likewise mutual between us. I consider it my duty to veto the major appropriation bills, if not all appropriation bills now before you. I shall veto the major appropriation bills, and it is my purpose to issue a proclamation tonight convening the Legislature in Special Session for tomorrow morning at ten o'clock. The subject of appropriations for the support of the departments and institutions of the State government will be submitted for your consideration.

Respectfully submitted,
Governor.

AND, WHEREAS, the conditions with reference to the appropriations are set forth in said message and it is apparent that the amount of money carried in the Appropriation Bills exceeds the prospective revenue of the State under the Constitutional limit of taxation, and, therefore, necessity exists to veto the major appropriation bills, if not all appropriation bills;

NOW, THEREFORE, I, DAN MOODY, GOVERNOR OF TEXAS, by virtue of the authority vested in me under the Constitution and laws of this State, do hereby call an

Extraordinary Session of the Forty-first Legislature, to convene at the Capitol in the City of Austin, Texas, on Wednesday, July 3, 1929, at ten o'clock a. m. to con-

sider appropriations for State departments and institutions.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of State to be impressed hereon at Austin, this the second day of July, A. D. 1929.

DAN MOODY,
Governor of Texas.

BY THE GOVERNOR:

WATT L. SAUNDERS,
Assistant Secretary of State.
The proclamation was read.

Election of President Pro Tem.

The Chair announced that nominations for President Pro Tem were in order.

Senator Wirtz nominated Senator Russek.

Senator McFarlane moved that the nominations cease. The motion prevailed.

The Chair appointed Senators Wirtz, Pollard, and McFarlane as tellers.

The tellers announced the following results:

Russek 21.

The Chair declared Senator Russek duly elected president Pro Tem of the Third Called Session of the Forty-first Legislature.

The Chair appointed Senators Wirtz, Pollard and McFarlane to escort the President Pro Tem to the platform where the oath of office was administered.

The Chair introduced President Pro Tem Russek, who briefly addressed the Senate.

Caucus Report.

Senator Pollard sent up the following caucus report:

Senate Chamber,
Austin, Texas,

Wednesday, July 3, 1929.

Hon. Barry Miller, Lieutenant Governor:

A caucus was held in the office of the Senate, attended by twenty-one Senators-elect, and by unanimous vote of those present, it was agreed that those Senators present holding proxies for those Senators absent could cast said proxies.

The purpose of the caucus was to determine the number and personnel of the Senate officers and employees

of the ensuing Third Called Session of the Forty-first Legislature. Senator Pollard was elected Chairman of the caucus, and Senator Hardin was elected Secretary.

The following officers and employees were recommended as officers and employees of the Senate during the Third Called Session of the Forty-first Legislature:

Secretary: Bob Barker.

Assistant Secretary: Morris Hankins.

Journal Clerk: Wendell O'Neal.

Assistant Journal Clerk: Mrs. Hugh Harris.

Second Assistant Journal Clerk: Miss Gladys Ash.

Sergeant-at-Arms: Albert Holt.

Assistants to Sergeant-at-Arms: Gordie Brown, Robert Lee McDougal, and Tom McClendon.

Sergeant-at-Arms for gallery: Sam N. Russell and J. C. Adrain.

Night Sergeant-at-Arms: W. P. Midkiff and Boyd Ray, and Hugh Marshall.

Calendar Clerk: W. V. Howerton.

Assistant Calendar Clerks: Grace Jennings, Juanita Wills.

Mailing Clerk: Mrs. Ann Polglass.

Assistant Mailing Clerks: Mrs. W. M. Roberts, Mrs. Estell R. Gardner, Mary Travis Root, W. A. Harper, Mrs. E. W. Price, Miss Francis Morgan, and Mrs. Pearl Key.

Librarian: Theodosia Bell.

Postmistress: Mrs. M. B. Brown.

Assistant Postmistress: Mrs. F. E. Sewell.

Chaplain: Rev. W. H. Doss.

Notary Clerk: William Connerly.

Assistant to Notary Clerk: Barkney.

Second Assistant Notary Clerk: R. A. Hartwell.

Messengers, two: Sam Tigner and A. W. Mitchell. (Each to receive \$2.50 per day.)

Telephone Operator: Miss Mary Jacobs.

Assistant Telephone Operator: Miss Ardis Phillips.

Doorkeeper: Warren Freund.

Assistant Doorkeeper: Everett Boyd, Granville Knight, A. P. Bagby, Jack Boyett, Walter C. Doughty, and A. W. Townsend.

General Custodian of the Senate: C. K. Walters.

The Lieutenant Governor is authorized to appoint an elevator boy

to serve at night and on Sunday, said elevator boy to receive \$4.00 per day.

The Sergeant-at-Arms is hereby directed to see to it that his office is kept open on all nights and also on Sundays and on Sunday nights; it is further directed that there shall be one telephone operator on duty every night, also on Sundays and Sunday nights; it is further directed that the postoffice shall be kept open on Sunday; and that the Sergeant-at-Arms shall have charge of all assistant Sergeant-at-Arms, and that the Doorkeeper shall have charge of all assistant doorkeepers, and that each shall distribute the duties among such assistants and direct the times and hours they shall work.

It is further recommended that the Enrolling and Engrossing Committees be authorized to employ Enrolling and Engrossing Clerks, and such assistants as necessary; and that the Enrolling and Engrossing Clerk shall receive \$10.00 per day for his service, and assistants \$5.00 per day.

It is further recommended that each Senator be permitted to name one stenographer, and that such employee act as clerk to each Committee of which said Senator shall be chairman, save and except that this does not apply to the Chairman of the Finance Committee and the Finance Committee.

It is further recommended that the President of the Senate have exclusive appointment of such number of pages and porters as in his judgment may be necessary.

It is further recommended that the compensation of officers and employees named, except as otherwise expressly provided, shall receive \$5.00 per day, except that the Secretary of the Senate, the Journal Clerk, Calendar Clerk and the Sergeant-at-Arms shall receive \$10.00 per day, and the Assistant Calendar Clerks, Assistant Secretary of Senate and first Assistant Journal Clerk shall receive \$7.50 per day, and except further that the pages shall receive \$3.00 per day, porters shall receive \$3.00 per day each, the head porter and porter carrying mail \$4.00 per day each.

It is further recommended that the Lieutenant Governor and Sen-

ators be authorized to use any of the employees needed for any other work in the Senate where their services may be required, in the judgment of the Lieutenant Governor.

It is further recommended that the Lieutenant Governor be permitted to select a Secretary at a salary of \$10.00 per day, and an Assistant Secretary at a salary of \$6.00 per day, and a personal messenger at a salary of \$5.00 per day.

It is further recommended that the Senators be given such time as they desire to name their personal appointments, and that such appointments be made by handing the names of such appointees to the Secretary of the Senate.

It is further recommended that twenty-five hundred (2,500) daily Journals be printed and that the same be prorated among the Senators and the Lieutenant Governor, except that 300 shall be furnished the members of the House.

It is further recommended that the Sergeant-at-Arms rent such typewriters as may be necessary for the use of the employees of the Senate, such rental not to exceed \$4.00 per month per machine.

It is further recommended that Judge Sutton be elected attorney for the Senate at a salary of \$20.00 per day.

It is further recommended that the Lieutenant Governor and each Senator be allowed the stationery and postage needed by them respectively, and be allowed expenses incurred in the transmitting and receiving of telephone messages and telegraph messages and expenses that may be actually necessary in the discharge of his official duty.

It is further recommended that the Chairman of the Finance Committee be authorized to appoint a Clerk to the Finance Committee and a first Assistant Clerk, and that their salaries shall be the same as during the Second Called Session of the Forty-first Legislature, and that he be authorized to appoint such other clerks as he deems necessary at a salary of \$5.00 per day.

It is further recommended that each Senator and the Lieutenant Governor be permitted to subscribe to five daily papers, to be paid for out of the contingent fund.

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It is further recommended that the Chairman of the Caucus be empowered to appoint a committee of three Senators to make a study of the officers and employees of the Senate and report to the Caucus at a later date the number of officers and employees needed for the efficient administration of the Senate.

POLLARD, Chairman.

Read and adopted.

Oath of Office Administered.

The Chair administered the oath of office to the officers and employees.

Appointments Announced.

The Chair announced the following appointments:

T. L. Wheeler, Private Secretary to Lieutenant Governor.

Miss Lucille Crook, Assistant Secretary to Lieutenant Governor.

Chas. Pratt, Messenger to Lieutenant Governor.

Pages.—Elwood Brown (Page to Finance Committee); Maurice Morgan, Martin Wukash, Cecil Tom Labenski, Lamar Zivley, Leon Chudez, Erwin Eilers, Iverson Hutton, Dudley Rugeley, Van Kirkpatrick, Hewett Davis, Robert E. Ledbetter, Earl Phares, Truett Wilbanks, Milton West, Milton Coffee.

Porters.—Jim Jackson, Head Porter; Buck Green, Tom Burton, Sam Grant, Fred Rhambo, Charlie Jackson.

Committees Appointed

Senator Love moved that the Chair appoint a Committee of three to notify the Governor that the Senate was

organized and ready for business, and a similar Committee to notify the House. The motion prevailed.

The Chair appointed Senators Love, Witt and Hornsby to notify the Governor, and Senators Wirtz, Beck and Cunningham to notify the House.

Committee Appointed.

In accordance with the last paragraph of the caucus report, the Chairman of the Caucus, Senator Pollard, appointed the following committee: Senators Hyer, McFarlane and Hardin.

Committees Report.

The committee appointed to notify the House that the Senate was organized appeared at the bar of the Senate and Senator Wirtz informed the Senate that the committee had performed its duty; and further that the Speaker notified the committee that the House would not be able to organize today on account of the lack of a quorum.

The committee appointed to notify the Governor appeared at the bar of the Senate and Senator Love announced that the committee had performed its duty.

Senators Excused.

On motion of Senator Beck, Senators DeBerry, Martin, Woodul, Small, Cousins, Patton, Parr, Woodward, and Stevenson were excused for the day on account of important business.

Adjournment.

Senator Holbrook moved to adjourn until Saturday morning at 10:00 o'clock.

Senator Pollard moved as a substitute to adjourn until 10:00 o'clock Monday morning. The Chair held that the Senate could not adjourn for longer than three days.

The motion to adjourn until Saturday prevailed and at 11:00 o'clock a. m. the Senate adjourned.

SECOND DAY.

Senate Chamber,

Austin, Texas,

Saturday, July 6, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem Gus Russek.

Roll Call.

The roll was called, no quorum developed, the following Senators answering to their names:

Beck.	Hardin.
Berkeley.	Hornsby.
Cunningham.	Miller.
DeBerry.	Neal.
Greer.	Parrish.